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ATTORNEYS FOR PLAINTIFF DIVERSI-PLAST PRODUCTS, INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

Diversi-Plast Products, Inc.,
a Minnesota corporation,

Plaintiff,

vs.

Battens Plus, Inc.,
a California corporation,

Defendant.

Civil Action No: 2:04-CV-01005 PGC
Judge: Paul G. Cassell

DECLARATION OF TYE BIASCO

I, Tye Biasco, hereby declare and state as follows:

1. I am an attorney with Patterson, Thuent, Skaar & Christensen, P.A., counsel for Plaintiff Diversi-Plast Products, Inc. ("Diversi-Plast"). I am over the age of eighteen years and

have personal knowledge of the facts that are stated herein. I am submitting this declaration in support of the Memorandum of Law in Support of Plaintiff's Motion for Summary Judgment of Infringement and No Inequitable Conduct.

2. Attached hereto as **EXHIBIT 1** is a true and correct copy of United States Patent No. 6,357,193.

3. Attached hereto as **EXHIBIT 2** is a true and correct copy of Defendant Battens Plus, Inc.'s ("Battens Plus") Responses to Plaintiff's First Set of Requests for Admission in this matter.

4. Attached hereto as **EXHIBIT 3** are a true and correct copies of pages from the deposition of Batten Plus' 30(b)(6) designee, Ted Anderson, that took place on May 5, 2005 and continued on March 16, 2006.

5. Attached hereto as **EXHIBIT 4** are true and correct copies of pages from the deposition of Diversi-Plast's 30(b)(6) designee, Gary Urbanski, that took place on November 17, 2005.

6. Attached hereto as **EXHIBIT 5** is a true and correct copy of a letter dated November 4, 2003 from James Patterson, counsel for Diversi-Plast to Ted Anderson of Battens Plus.

7. Attached hereto as **EXHIBIT 6** is a true and correct copy of a facsimile dated November 18, 2003 from Ted Anderson of Battens Plus to patent attorney Mark Jacobs produced by Mr. Jacobs in response to a subpoena in this matter.

8. Attached hereto as **EXHIBIT 7** is a true and correct copy of a letter dated November 18, 2003 from patent attorney Mark Jacobs to Ted Anderson of Battens Plus produced by Mr. Jacobs in response to a subpoena in this matter.

9. Attached hereto as **EXHIBIT 8** are true and correct copies of pages from the deposition of Batten Plus' former patent attorney, Mark Jacobs that took place on January 19, 2006.

10. Attached hereto as **EXHIBIT 9** is a true and correct copy of Defendant Battens Plus, Inc.'s ("Battens Plus") Responses to Plaintiff's Third Set of Requests for Admission in this matter.

11. Attached hereto as **EXHIBIT 10** are true and correct copies of advertising material for the BattenUp product produced by Battens Plus as BP0002-08 in this matter.

12. Attached hereto as **EXHIBIT 11** is a true and correct copy of an installation guide for the BattenUp product produced by Battens Plus as BP0012 in this matter.

13. Attached hereto as **EXHIBIT 12** is a true and correct copy of an ICC Evaluation Service Legacy Report for the BattenUp product produced by Battens Plus as BP0013-14 in this matter.

14. Attached hereto as **EXHIBIT 13** are true and correct copies of pages from the deposition of Richard Morris that took place on November 28, 2005.

15. Attached hereto as **EXHIBIT 14** is a true and correct copy of M. Eagles Tool Warehouse, Inc. v. Fisher Tooling Co., Inc., --- F.3d ----, 2006 WL 454355 (Fed. Cir. 2006).

16. Attached hereto as **EXHIBIT 15** are true and correct copies of the Expert Report of Steve Carpenter on Infringement and the Reply Expert Report of Steve Carpenter on Infringement prepared for Diversi-Plast in this matter.

17. The photograph reproduced on pp. 9 and 11 of the Memorandum of Law in Support of Plaintiff Diversi-Plast Products, Inc.'s Motion for Summary Judgment is a true and

correct photograph of a sample of the BattenUp product produced by Battens Plus as BP0001 in this matter

18. The photograph reproduced on p. 10 of the Memorandum of Law in Support of Plaintiff Diversi-Plast Products, Inc.'s Motion for Summary Judgment was obtained from Battens Plus' website <www.battensplus.com/Engaged.html>.

19. Attached hereto as **EXHIBIT 16** is a true and correct copy of Golden Blount, Inc. v. Robert H. Peterson Co., --- F.3d ----, 2006 WL 335607 (Fed. Cir. 2006).

20. Attached hereto as **EXHIBIT 17** is a true and correct copy of Battens Plus' First Supplemental Responses to Plaintiff's First Set of Interrogatories in this matter.

21. Attached hereto as **EXHIBIT 18** is a true and correct copy of Battens Plus' First Supplemental Responses to Plaintiff's Second Set of Interrogatories in this matter.

22. Attached hereto as **EXHIBIT 19** are true and correct copies of documents referenced in Battens Plus' First Supplemental Response to Plaintiff's Interrogatory No. 16 in this matter.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 31, 2006

s/ Tye Biasco
Tye Biasco